

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

MASSACHUSETTS MUTUAL LIFE
INSURANCE COMPANY,

Plaintiff,

v.

MERRILL LYNCH, PIERCE, FENNER &
SMITH INC.; DEUTSCHE BANK
SECURITIES INC.; GOLDMAN, SACHS &
CO., INC; J.P. MORGAN SECURITIES LLC;
and RBS SECURITIES INC.,

Defendants.

Civil Action No. 3:11-30285-MAP

**MASSMUTUAL’S NOTICE OF MOTION TO COMPEL
FURTHER DISCOVERY RESPONSES**

Plaintiff Massachusetts Mutual Life Insurance Company (“MassMutual”) hereby moves, pursuant to Federal Rule of Civil Procedure 37(a)(3)(B) and Local Rule 37.1(b), for an order to compel further responses to MassMutual’s (i) First Set of Joint Interrogatories to Defendants Merrill Lynch, Pierce, Fenner & Smith Inc. (“Merrill Lynch”), Deutsche Bank Securities Inc. (“Deutsche Bank”), Goldman, Sachs & Co. (“Goldman Sachs”), J.P. Morgan Securities LLC (“J.P. Morgan”), and RBS Securities Inc. (“RBS”) (collectively, “Defendants”); (ii) First Set of Requests for Production to each Defendant; and (iii) First Set of Requests for Admission to Merrill Lynch.

Specifically, MassMutual moves to compel further discovery responses as follows:

- Merrill Lynch: MassMutual moves to compel (i) further responses to Joint Interrogatory Nos. 1-2; (ii) compliance with the timeframe generally governing the Requests for Production; (iii) a search for documents beyond the limitations imposed by Merrill Lynch's General Objections Nos. 14-16; (iv) further responses to Requests for Production Nos. 10, 12, 16-18, 25-27, 46, 58-59, 63-69, 72-73, 78-79; and (v) further responses to Request for Admission No. 1;
- Deutsche Bank: MassMutual moves to compel (i) further responses to Joint Interrogatory Nos. 1-2; (ii) compliance with the timeframe generally governing the Requests for Production; and (iii) further responses to Requests for Production Nos. 27, 63-69, 72-73;
- Goldman Sachs: MassMutual moves to compel (i) further responses to Joint Interrogatory Nos. 1-2; (ii) compliance with the timeframe generally governing the Requests for Production; and (iii) further responses to Requests for Production Nos. 1-73;
- J.P. Morgan: MassMutual moves to compel (i) further responses to Joint Interrogatory Nos. 1-2; (ii) compliance with the timeframe generally governing the Requests for Production; (iii) a search for documents beyond the limitations imposed by J.P. Morgan's General Objection No. 7; and (iv) further responses to Requests for Production Nos. 27, 46, 63-69, 72-73; and
- RBS: MassMutual moves to compel (i) further response to Joint Interrogatory Nos. 1-2; (ii) compliance with the timeframe generally governing the Requests for Production; and (iii) further responses to Requests for Production Nos. 27, 63-69, 72-73.

This Motion should be granted because, as more fully explained in MassMutual's accompanying Memorandum of Law, Defendants have failed to provide complete and diligent responses to MassMutual's two interrogatories seeking basic identification of third parties known to Defendants, but unknown to MassMutual. Defendants have improperly objected to numerous document requests and have improperly limited the scope of documents to be searched. And Merrill Lynch has failed to respond adequately to discovery regarding its successor liability.

This Motion is based on this Notice of Motion, the accompanying Memorandum of Law in support thereof, the Appendices attached thereto, the attached Declaration of Molly Stephens

and exhibits thereto, the pleadings and records on file in this action, any matters of which the Court may take judicial notice, and any further argument as may be present on this motion.

This Motion is made in conformity with Local Rule 37.1(b). Opposing counsel failed to attend a discovery conference within 14 calendar days after the request made on September 12, 2012, and refused to resolve the outstanding discovery disputes in a belated letter sent on September 27, 2012.

DATED: October 1, 2012

EGAN, FLANAGAN AND COHEN, P.C.

By: /s/ Edward J. McDonough Jr.
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CERTIFICATE OF SERVICE

I hereby certify that this document, filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF) and paper copies will be sent to those indicated as non-registered participants on this 1st day of October, 2012.

/s/ Edward J. McDonough Jr.

Edward J. McDonough Jr.